ARKANSAS SUPREME COURT

No. CR 06-1484

	Opinion Delivered **March 22, 2007**
CHARLES ALEXANDER/RYAHIM Appellant v. STATE OF ARKANSAS Appellee	PRO SE MOTION FOR RECONSIDERATION OF DISMISSAL OF APPEAL [CIRCUIT COURT OF PULASKI COUNTY, CR 97-1450, HON. JOHN W. LANGSTON, JUDGE] MOTION DENIED.

PER CURIAM

In 1997, Charles Alexander/Ryahim was convicted of first-degree murder and sentenced to life imprisonment as a habitual offender. This court affirmed. *Alexander v. State*, 335 Ark. 131, 983 S.W.2d 110 (1998). Subsequently, appellant filed a petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1. The trial court denied the petition and we affirmed. *Alexander v. State*, CR 00-453 (Ark. Nov. 8, 2001) (per curiam).

In 2006, appellant filed a pro se petition in the trial court for a writ of habeas corpus pursuant to Act 1780, as amended by Act 2250 of 2005 and codified at Ark. Code Ann. §§ 16-112-201–207 (Repl. 2006). The trial court denied the petition without a hearing, and appellant, proceeding pro se, lodged an appeal here from the order. We dismissed the appeal. *Alexander v. State*, CR 06-1484 (Ark. Feb. 22, 2007) (per curiam). Appellant now seeks reconsideration of the dismissal of the appeal.

Our dismissal was premised upon appellant's failure to establish a valid basis to issue the writ. The preponderance of his arguments focused on issues related to perjury, misconduct,

ineffective assistance of counsel, conflict of interest, insufficient evidence, lack of due process and impeachable offenses. As we stated in our original opinion, these claims were not contemplated by or are not within the scope of sections 16-112-201–208, as amended. Any claims related to an issue outside of the limited scope of Act 1780 are not the proper basis for a petition for writ of habeas corpus under the statutory provisions, and will not be considered.

Similarly, a petition for writ of habeas corpus pursuant to Ark. Code Ann. §§ 16-112-101–123 (Repl. 2006) does not afford a prisoner an opportunity to retry his case and is not a substitute for direct appeal or a timely petition for postconviction relief. *Meny v. Norris*, 340 Ark. 418, 13 S.W.3d 143 (2000) (per curiam). In emphasizing that it is not to be used as a substitute for appeal, we have said that in habeas corpus proceedings, it is conclusively presumed that there was sufficient evidence to sustain a conviction. *City of Clinton v. Jones*, 302 Ark. 109, 787 S.W.2d 242 (1990), *rev'd on other grounds*, (citing *Baird v. Bray*, 125 Ark. 511, 189 S.W. 657 (1916)). A petition for writ of habeas corpus pursuant to Act 1780, as amended, likewise was not designed to address issues related to the sufficiency of the evidence, and other matters not within the scope of the Act, despite appellant's protestations to the contrary. The motion for reconsideration does not establish that there was any error in our opinion with regard to these claims, and thus cites no ground for reconsideration of the pleadings.

With regard to scientific testing pursuant to Act 1780, as amended, appellant failed to establish a valid basis for testing items as discussed in our previous opinion. The motion for reconsideration does not establish that there was any error in the opinion or present any cognizable basis for issuance of the writ.

As we stated in our original opinion, the items to be tested must have been used to obtain a

conviction against appellant, and not a third party; thus, testing handguns used to convict another person would not fall within the ambit of Act 1780. Also, appellant did not provide proof that the items used in obtaining his conviction were currently in the possession of the state, subject to a chain of custody and under conditions sufficient to ensure that the evidence had not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed testing. Finally, appellant did not show that the testing he sought would actually prove his innocence. By implicating another suspect or proving alleged improper activity on the part of the police, he could not be automatically excluded as the perpetrator of the murder.

Motion denied.